

CITY OF BELLEVUE
CITY COUNCIL

Summary Minutes of Regular Session

September 21, 2009
8:00 p.m.

Council Chamber
Bellevue, Washington

PRESENT: Mayor Degginger, Deputy Mayor Balducci, and Councilmembers Bonincontri, Chelminiak, Davidson, and Lee

ABSENT: Councilmember Creighton

1. Call to Order

The meeting was called to order at 8:10 p.m., with Mayor Degginger presiding.

2. Roll Call, Flag Salute

Upon roll call, all Councilmembers except Mr. Creighton were present. Councilmember Davidson led the flag salute.

- (a) Special Communication from King County Councilmember Jane Hague

[Agenda Item moved to earlier Study Session.]

- (b) Proclaiming Commitment to Census Awareness

Mayor Degginger commented on the importance of the census as it relates to congressional representation, the allocation of federal and state funding to local governments, and its role in decision making and planning. He read a proclamation into the record declaring Bellevue's commitment to partnering with the U.S. Census Bureau to help ensure a complete and accurate count in 2010.

Wayne Key accepted the proclamation on behalf of the U.S. Census Bureau, Seattle Regional Center. He looks forward to working with the City.

- (c) Proclaiming Month of Concern for the Hungry

Mayor Degginger noted the continually increasing demand for food from the community in the ongoing recession. He read a proclamation into the record recognizing September 26, the Mayors' Day of Concern for the Hungry, through October 24, 2009, as the East King County Month of Concern for the Hungry.

Joseph Adriano, Human Services Grant Coordinator, introduced Tammy Broughton from the Emergency Feeding Program and Jessica Porter from Hopelink. Ms. Porter accepted the proclamation and thanked the Council for its partnership with human services agencies.

- (d) Update on Neighbor Link projects and Recognition of Theresa Crim, Whole Foods Market, Bellevue

Cheryl Kuhn, Neighborhood Outreach Coordinator, provided an update on Neighbor Link projects held this summer. Neighbor Link's goals are to raise an awareness of the community's human services needs and to build a sense of community and neighborhood identity.

Ms. Kuhn introduced Julie Ellenhorn, who coordinated the City's activities with the neighborhoods. Ms. Ellenhorn said 23 neighborhoods participated this summer in service projects including food drives, block watch programs, community litter clean-ups, community workshops, and school supply and toiletry drives.

Ms. Kuhn said she had hoped to introduce Theresa Crim of Whole Foods Market in Bellevue, but she was unable to attend. On July 23, the City and Whole Foods hosted a picnic and concert for participating neighborhoods at City Hall. Throughout the summer Whole Foods provided cakes for each neighborhood function and donated more than \$5,000 in awards to neighborhood projects. Ms. Kuhn read a note from Ms. Crim thanking the City Council for the opportunity to partner with the City in this innovative and worthwhile program.

Mayor Degginger asked that staff provide a letter of thanks to Whole Foods on behalf of the City Council.

Councilmember Lee complimented staff for their work with the community, and noted that he attended a number of the neighborhood events.

- (e) Proclaiming October 1, 2009, as Be the Cure Day

Mayor Degginger read a proclamation recognizing October as Breast Cancer Awareness Month and October 1 as Be the Cure Day. Unfortunately, the representative from the Puget Sound Affiliate of Susan G. Komen for the Cure was unable to attend. In her place, Kathy Degginger accepted the proclamation.

3. Communications: Written and Oral

- (a) Sue Sherbrooke, CEO of the Seattle-King-Snohomish YWCA, thanked the Council for considering on tonight's agenda a resolution from the ARCH Executive Board recommending an allocation of \$190,000 to the YWCA Family Village in Issaquah affordable housing project. She thanked the Council for Bellevue's longstanding support of housing projects.

- (b) Betsy Blackstock, President of Surrey Downs Community Club, thanked Whole Foods for its support of the Neighbor Link program. She commended Julie Ellenhorn for her hard work in coordinating all of the neighborhood projects. Ms. Blackstock reported that the Surrey Downs neighborhood won a prize, and Whole Foods catered their picnic for 250 people.

Speaking as an individual voter and taxpayer, Ms. Blackstock expressed concern about Councilmembers' occasional role as judges in quasi-judicial land use matters. She noted that conditional use permit applications represent projects in neighborhoods, and as a resident she wants to be able to discuss these matters with Councilmembers. She spoke in support of Deputy Mayor Balducci's request for concrete information defining quasi-judicial matters and the Council's role. Ms. Blackstock stated her discomfort with the Council making policy while also participating in the application of legislation.

- (c) John Chesemore, representing the Neighborhood Alliance for Community Planning, expressed concern that residents have not been included in the Bellevue High School renovation planning process. He submitted his comments in writing.

4. Reports of Community Council, Boards and Commissions: None.

5. Report of the City Manager

From Study Session, Agenda Item 3(a) – Consideration of application of Gary Abrahams of T-Mobile for a Conditional Use Permit to replace a parking lot area standard with a wireless communication facility that includes a 120-foot tall monopole and a 160 square foot equipment shed. The site is located in the jurisdiction of the East Bellevue Community Council and serves the Bellevue Seventh Day Adventist Church located at 15 – 140th Avenue NE. File No. 08-143285-LB.

(Council action on this quasi-judicial matter is scheduled for October 5, 2009. This is a Process I application within the jurisdiction of the East Bellevue Community Council; therefore, the Hearing Examiner provides a written recommendation to Council, which is the decision-making body. An appeal of the Hearing Examiner's recommendation was not filed. The Hearing Examiner recommends Council approval with conditions.)

City Manager Steve Sarkozy noted that this agenda item was originally scheduled for the earlier Study Session.

Carol Helland, Land Use Director, reported on the application of Gary Abrahams of T-Mobile for a Conditional Use Permit to replace a parking lot area standard with a wireless communication facility that includes a 120-foot tall monopole and a 160 square foot equipment shed. The site is located at the Seventh Day Adventist Church at 140th Avenue NE and Main Street, within the East Bellevue Community Council's boundaries. The proposed location for the monopole and equipment is in a grove of mature fir trees. The proposal was reviewed by the East Bellevue Community Council. One citizen appeared before the Hearing Examiner with questions about tree growth around the antenna and whether the trees might eventually obscure

the signal.

Deputy Mayor Balducci requested additional photos of the equipment before Council takes action on October 5, in order to get a better sense of the dimensions. Responding to Deputy Mayor Balducci, Ms. Helland said the pole is not a glue laminate pole. It will be deep within the grove of trees and not on the right-of-way, so only the top of the pole will show.

Deputy Mayor Balducci recalled a proposal a few years ago from former mayor Ron Smith suggesting Code changes to encourage smaller cell tower equipment with reduced visual impacts. Ms. Helland explained that the City continues to work with providers to ensure that the facilities they request are the minimum size needed. Providers must also provide search rings indicating the gap in service they are intending to fill.

Deputy Mayor Balducci asked staff to contact other jurisdictions to see what types of equipment and regulations are used.

Councilmember Chelminiak recalled discussions from the Planning Commission regarding the reluctance of providers to change their equipment. One issue is whether to provide larger poles at fewer locations or to provide more but smaller poles throughout the community. Mr. Chelminiak said it would be worth exploring the most current technology.

Responding to Mr. Chelminiak, Ms. Helland said the application is before the Council as a conditional use permit because CUPs dictate the highest form of community engagement in the process. This type of application affects different stakeholders and is subject to mitigating conditions. This particular case is further complicated because the site lies within the jurisdiction of the East Bellevue Community Council, which will vote to approve or disapprove the City Council's Ordinance on the matter.

Responding to Councilmember Lee, Ms. Helland said a conditional use permit can be revoked in the future if a use fails to comply with the conditions of the original approval.

(a) Shoreline Master Program Update Project

Ms. Helland reported on the Shoreline Master Program Update, which was initiated and funded by the Council in 2007, following adoption of the Critical Areas Ordinance in 2006. The update is a three-year process divided into six phases. Phases 1 and 2 have been completed and included development of a public participation plan, inventory, and shoreline analysis and characterization. The Planning Commission began meeting regularly in January 2009 to address Phase 3, which has a primary focus on shoreline environmental designations and policy work.

To date, staff has conducted public outreach including a public opinion survey, mailings to neighborhood associations, creation of a web page, a formal focus group, discussions with contractors and marina owners, a Lake Washington boat tour, creation of a web blog, and an initial informational open house on May 21, 2009. Next steps are for staff to meet with the Planning Commission and project science panels that link the science of the policies to desired outcomes.

Ms. Helland said the program update will go through the local and state adoption process next year. She acknowledged commentary regarding the relevance of the Anacortes decision to the update process. The legal department has concluded that the current confusion about the overlap between the Growth Management Act and the Shoreline Management Act, with respect to critical areas within the shoreline jurisdiction, does not affect the City's strategy for the 2009 Shoreline Master Program Update.

Consistent with previous direction from the Council, Ms. Helland said staff is proceeding with the understanding that changes to shoreline critical areas regulations will be limited. Modifications will be based on experience gained during the past three years of permit review, significant changes in scientific understanding, changes in the environmental context identified during the shoreline characterization, or ideas advanced by the regulated community that would achieve the same outcome at less cost or impact to private property owners.

Responding to Councilmember Chelminiak, Ms. Helland said the first science panel will be held on Wednesday. Three or four meetings will be held with the panel at the Mercer Slough Environmental Education Center, with topics to include habitat, shoreline restoration, and water quality. Councilmember Chelminiak asked that these meetings be placed on his schedule.

(b) Bellevue High School Review Process

Mr. Sarkozy opened discussion regarding the Bellevue High School renovation review process. He noted the complexity of the process in terms of the coordinating planning between the City and Bellevue School District, and with regard to the City Council's quasi-judicial role in this matter.

Lacey Madche, Assistant City Attorney, described the quasi-judicial nature of this conditional use permit (CUP) application. The Council will be required to sit as judges for the final disposition of the permit, if the Hearing Examiner's decision is appealed. Ms. Madche explained that the responsibility of permit processing has been delegated to staff for the purpose of managing the review process and developing recommendations to the Hearing Examiner consistent with the CUP decision criteria contained in the Land Use Code. The City Council becomes involved only if the Hearing Examiner's decision is appealed.

Ms. Helland provided a briefing on the Bellevue High School development review process. She noted steps taken by Bellevue School District in anticipation of construction over the next twelve months. Bellevue High School represents the 21st school in the district that is slated for major reconstruction as part of the District capital facilities upgrades. Ms. Helland noted community involvement in the planning processes, which has resulted in school buildings that are viewed as positive community assets. Of the 20 discretionary permits issued so far, only one has been appealed.

Reconstruction of Bellevue High School requires a conditional use permit, which provides for an interactive permitting approach prior to the onset of the planning process and throughout the design process. Ms. Helland acknowledged some discontent among neighbors with respect to

the meetings held by Bellevue School District. The District was required to hold one community meeting for the project, but has held four community meetings that have been publically noticed. In addition, the District has held five meetings with the group in attendance tonight.

Ms. Helland acknowledged the commitment of the City and District expressed in August to continue roundtable discussions about issues still facing the school project with respect to traffic circulation. Issues to be addressed include safety, street width, neighborhood character, street design, traffic operations, private driveways in the vicinity, tree retention, cost, and constructability. The City continues to work with the District to resolve the issues before the matter goes before the Hearing Examiner. Ms. Helland said the Comprehensive Plan identifies 108th Avenue as a neighborhood collector-arterial, and it is within the City's interest to continue to protect the neighborhoods. As part of the conditional use permit, the site will be required to manage its traffic.

Responding to Councilmember Davidson, Ms. Madche confirmed that conditional use permits involve a quasi-judicial process. This matter will be considered quasi-judicial before the Hearing Examiner, and would become quasi-judicial if the Hearing Examiner's decision were to be appealed to the City Council.

In further response, Ms. Madche said comprehensive planning involves the Council acting as the legislative body. The rezones that implement those decisions are quasi-judicial in nature. Ms. Helland added that when Council makes a Comprehensive Plan change to modify a policy or land use map, it is a legislative action that is then followed by a rezone action that is quasi-judicial.

Councilmember Chelminiak noted the question raised earlier about why citizens cannot approach elected officials regarding quasi-judicial matters. He briefly reviewed the history of the way that land use law developed in Washington. The concept is that a City Council sets certain policies and laws, and development staff then carries out the policies. However, it was acknowledged that an appeal process should be available. As a less expensive and more expeditious alternative to a Superior Court appeal, the ability to appeal to the City Council was enacted. Mr. Chelminiak noted the complexity of some quasi-judicial matters and suggested that a legal approach could be more appropriate in certain circumstances.

Ms. Madche said training will be provided to the Council, and additional informational materials will be provided to the public, regarding quasi-judicial matters.

Deputy Mayor Balducci stated that in reference to this particular proposal, neighbors have voiced displeasure that their concerns are not being heard in a way that can influence the planning process. She questioned the timeline for ongoing discussions and whether modifications to address the neighbors' concerns are possible.

Ms. Helland observed that recent comments from residents are part of the process. She noted that there has not been just one traffic circulation plan under consideration by the District. Within this process, the public has suggested a number of modifications including a dedicated right-turn lane on 108th Avenue. The District studies each of these suggestions and provides a

schematic conceptual plan reflecting each suggested change. Ms. Helland noted that the District has shown good faith in conceptualizing several suggested modifications.

Councilmember Bonincontri observed that all schools are in residential districts. She questioned whether traffic plans from another school might be applicable to the Bellevue High School project. Ms. Helland said elements of other projects are applicable. However, a primary focus of the Bellevue High project is to circulate more traffic on site instead of on perimeter streets.

(c) Temporary Encampment Permits for Tent City 4

Deputy City Manager Brad Miyake noted the management brief beginning on page 5-15 of the meeting packet regarding temporary encampment permits for Tent City 4, which proposes a location at the First United Methodist Church on 108th NE. Council has begun receiving comments from citizens regarding this proposal.

Ms. Helland recalled that the development review process that governs temporary encampments is found in provisions of the Land Use Code, which have also been interpreted based on a Consent Decree that litigation over issues associated with the City's first temporary encampment permit. Bellevue has hosted four temporary encampments with no significant issues. The City currently has a permit application from First United Methodist Church located on 108th Avenue NE. The church intends to host Tent City from October 31, 2009, to January 29, 2010. The staff report for this project is to be issued in mid-October.

(d) Update on Crime Statistics

Mr. Miyake noted a report in Council's desk packet regarding Bellevue's 2008 crime statistics. He recalled that on April 6, 2009, Police Chief Linda Pillo reported on Bellevue's 2008 crime statistics demonstrating that Bellevue remains a very safe city. Last week, the FBI issued crime statistics from across the country. These numbers confirm that Bellevue continues to be a very safe community when compared to its counterparts across country and to the ten largest cities in the state.

Deputy Chief Bill Quinn reviewed Bellevue's crime statistics and compared them to other cities. Bellevue is the fifth largest city in Washington in terms of population and has the lowest crime rate of the 10 largest cities.

Deputy Mayor Balducci thanked staff for the update and commented that the dedication of resources to public safety is reflected in the crime statistics.

6. Council Business and New Initiatives

At the Mayor's suggestion, there were no reports.

7. Approval of the Agenda

→ Deputy Mayor Balducci moved to approve the agenda, and Councilmember Chelminiak

seconded the motion.

→ The motion to approve the agenda carried by a vote of 6-0.

8. Consent Calendar

→ Deputy Mayor Balducci moved to approve the Consent Calendar, and Councilmember Chelminiak seconded the motion.

→ The motion to approve the Consent Calendar carried by a vote of 6-0, and the following items were approved:

- (a) Resolution No. 7976 authorizing execution of an amendment to the Professional Services Agreement with Graham & Dunn, PC to increase the total contract amount from \$40,000 to \$300,000 for legal services in the lawsuit of Weinstein & Newport Yacht Club v. City of Bellevue, USDC No: C09-0589.
- (b) Motion to approve payment of claims for the period September 5, 2009 through September 18, 2009 and payroll for the period August 16, 2009 through August 31, 2009.
- (c) Resolution No. 7977 authorizing execution of a Professional Services Agreement with Becker Architects, in an amount not to exceed \$92,990, to provide the professional services required to apply for LEED Certification for the Bellevue Youth Theatre (BYT) expansion project.
- (d) Motion to: 1) cancel award of Bid No. 9192 to Pinnacle Construction Group, due to the unresponsiveness of the contractor in executing the contract; and 2) award Bid No. 9192 to All Around Fencing Company, in the amount of \$49,933.33, as the second lowest responsible bidder for the Bannerwood Baseball Backstop Replacement project.
- (e) Motion to award Bid No. 9236 to Buckley Nursery Company Inc., in the amount of \$79,560.00, as the lowest responsible bidder for the Larsen Lake Riparian and Greenbelt Enhancement Project.
- (f) Motion to award Bid No. 9244 to Thornberg Construction Company, Inc., in the amount of \$281,570.00, as the lowest responsible bidder for construction of the Bellevue Golf Course pump station.
- (g) Resolution No. 7978 authorizing execution of a four-year contract with Eden Advanced Pest Control, for a minimum of \$18,400 but not to exceed \$1,728,000 for application of larvicide to City-owned storm water catch basins as needed during the 2010-2013 mosquito season consistent with Public Health-Seattle and King County's West Nile Virus (WNV) Response Guidelines for Cities and Agencies in King County.

- (h) Resolution No. 7979 authorizing execution of amendment number one to the Professional Services Agreement for the Kelsey Creek 121st Avenue SE to NE 8th Street Stream Channel Modifications, with Anchor/QEA LLC, in an amount not to exceed \$54,000, for engineering services (CIP Plan No. D-81).

9. Public Hearings: None.

10. Land Use: None.

11. Other Ordinances, Resolutions and Motions

- (a) Resolution No. 7980 authorizing execution of funding agreements for the funding of the YWCA Issaquah Highlands (Phase 2) affordable housing project, as recommended by the ARCH Executive Board. ARCH funding request of Bellevue is for \$190,070.

Mr. Miyake introduced discussion regarding funding agreements related to Phase 2 of the YWCA Issaquah Highlands Family Village project. The project will provide affordable family housing at the site, which was donated by the City of Issaquah.

Arthur Sullivan, Program Manager for ARCH (A Regional Coalition for Housing), recalled that the Bellevue City Council took action on Phase 1 of the project earlier this year. The Family Village is a long-term, ambitious project to extend over 15 years. The site is immediately adjacent to a park and ride facility and next to a future commercial area. Phase 2 provides 47 rental units with a mix of one, two and three bedroom units to serve those earning 50 to 60 percent of the median income. The project includes a child care facility, community spaces, and the regional office for the East King County YWCA.

Mr. Sullivan said the ARCH Executive Board supports the project due to the range of income levels served, location, partnership with the City of Issaquah, integration of different services on the property, and the ability to provide a large number of units needed in East King County. Phase 1 was targeted at those below median income levels. The Board's recommendation includes a number of conditions to be met to ensure the timely implementation of the project. Phase 2 is slated to be completed by the end of this year.

→ Deputy Mayor Balducci moved to approve Resolution No. 7980, and Councilmember Lee seconded the motion.

Mayor Degginger thanked ARCH and the City of Issaquah for their work on this project. Mr. Sullivan noted that a number of cities and partners are involved in the project.

→ The motion to approve Resolution No. 7980 carried by a vote of 6-0.

Responding to Councilmember Davidson, Mr. Sullivan said Bellevue annually contributes approximately \$400,000 to ARCH from the General Fund and \$100,00 in Community

Development Block Grant (CDBG) Funds.

On a different topic, Councilmember Lee highlighted Consent Calendar Item 8(g) regarding the City's efforts to mitigate the threat of the West Nile Virus.

Councilmember Chelminiak said he recently attended a reunion at Bellevue High School. He apologized to Betsy Blackstock for referring to her by her maiden name, Ms. Blessing, earlier in the evening. He noted that Ms. Blackstock was his best friend's girlfriend in high school.

12. Unfinished Business: None.

13. Continued Oral Communications

- (a) Betsy Blackstock commented that residents' issues with the plans to renovate Bellevue High School are due to the Steering Committee's review of five different plans, none of which addressed the traffic concerns voiced by neighborhoods. She feels the current concerns about the project could have been avoided if the community had been involved in the earlier review of the five plans. Several of the meetings related to the project were requested by residents. Ms. Blackstock said Surrey Downs residents were not approached by the City or Bellevue School District to solicit their involvement. She expressed her frustration with the process and urged City Councilmembers to protect the neighborhoods.
- (b) Renay Bennett said she was involved in earlier discussions about the Bellevue High School renovation process when allowed. She and another member of the Belcrest Board attended a meeting with the Bellevue School District, Bellevue High School, and the project architect approximately one year ago. A plan was presented as the only plan to be considered, and neighborhood representatives expressed concern about traffic impacts. Residents are strongly opposed to the proposed second driveway, which Ms. Bennett said goes against everything the City has done over the years to protect this neighborhood. She reported that when residents asked to be represented on the Steering Committee, the principal of Bellevue High School told them that was inappropriate. Ms. Bennett said a small number of residents received notice of earlier meetings, while other nearby residents did not. She feels the District is not listening to residents' concerns about the second driveway. Residents supported the bond issue and look forward to a new school, but they want their concerns to be addressed.

14. New Business: None.

15. Executive Session

→ Deputy Mayor Balducci moved to extend the meeting to 11:00 p.m., and Councilmember Chelminiak seconded the motion.

→ The motion to extend the meeting carried by a vote of 6-0.

Mayor Degginger declared recess to Executive Session for approximately one hour to discuss one item of labor negotiations. He noted that no additional business would be conducted following the Executive Session.

16. Adjournment

The Executive Session ended at 10:30 p.m. and the meeting was adjourned.

Myrna L. Basich
City Clerk

/kaw